



AN ACT REVISING THE COLLECTION OF RESTITUTION AND SUPERVISORY FEES BY THE DEPARTMENT OF CORRECTIONS FROM AN INDIVIDUAL CONVICTED OF A CRIMINAL OFFENSE; AMENDING SECTIONS 46-18-241, 46-18-246, AND 46-23-1031, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-241, MCA, is amended to read:

"46-18-241. Condition of restitution. (1) As provided in 46-18-201, a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained a pecuniary loss, including a person suffering an economic loss. The duty to pay full restitution under the sentence remains with the offender or the offender's estate until full restitution is paid ~~and, whether or not the offender is under state supervision.~~ and, whether or not the offender is under state supervision. If the offender is under state supervision, payment of restitution is a condition of any probation or parole.

(2) (a) ~~The court shall require the offender to~~ shall pay the cost of supervising the payment of restitution, as provided in 46-18-245, ~~if the offender is able to pay,~~ by paying an amount equal to 10% of the amount of restitution ordered, but not less than \$5.

(b) A felony offender shall pay the restitution and cost of supervising the payment of restitution to the department of corrections until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The department shall pay the restitution to the person or entity to whom the court ordered restitution to be paid. The department may contract with a government agency or private entity for the collection of the payments for restitution and the cost of collecting the payments for restitution during the period following state supervision or state custody of the offender. The department shall adopt rules to implement this subsection (2)(b).

(c) In a misdemeanor case, payment of restitution and of the cost of supervising the payment of restitution must be made to the court until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The court shall disburse the money to the entity employing the person ordered to supervise restitution under 46-18-245, which shall disburse the restitution to the person or entity to whom the

court ordered restitution to be paid.

(3) If at any time the court finds that, because of circumstances beyond the offender's control, the offender is not able to pay any restitution, the court may order the offender to perform community service during the time that the offender is unable to pay. The offender must be given a credit against restitution due at the rate of the hours of community service times the state minimum wage in effect at the time that the community service is performed."

Section 2. Section 46-18-246, MCA, is amended to read:

"46-18-246. Waiver or modification of payment. An offender may at any time petition the sentencing court to adjust or otherwise waive payment of any part of any ordered restitution or amount to be paid pursuant to 46-18-241(2)(a). The court shall schedule a hearing and give a victim to whom restitution was ordered notice of the hearing date, place, and time and inform the victim that the victim will have an opportunity to be heard. If the court finds that the circumstances upon which it based the imposition of restitution, amount of the victim's pecuniary loss, or method or time of payment no longer exist or that it otherwise would be unjust to require payment as imposed, the court may adjust or waive unpaid restitution or the amount to be paid pursuant to 46-18-241(2)(a) or modify the time or method of making restitution. The court may extend the restitution schedule."

Section 3. Section 46-23-1031, MCA, is amended to read:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection (1)(c), a probationer, parolee, or person committed to the department who is supervised by the department:

(i) ~~under intensive supervision or conditional release~~ shall pay to the department a supervisory fee of no less than \$120 a year and no more than \$360 a year, prorated at no less than \$10 a month for the number of months under supervision; or

(ii) under continuous satellite-based monitoring shall pay to the department a supervisory fee of no more than \$4,000 a year as established by rules adopted by the department under 46-23-1010.

(b) A person allowed to transfer supervision to another state shall pay a fee of \$50 to cover the cost of processing the transfer. The interstate transfer fees required by this subsection must be collected by the department.

(c) The court, department, or board may reduce or waive a fee required by subsection (1)(a) or (1)(b) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the person a significant financial hardship.

(2) (a) There is an account in the state special revenue fund for the supervisory fees collected under the provisions of this section.

(b) The department shall deposit the total supervisory fees collected pursuant to subsection (1) into the state special revenue account established in subsection (2)(a)."

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0149, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 149
INTRODUCED BY M. MENAHAN
BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

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